

Introduced by Senator Figueroa

February 24, 2006

An act relating to pharmaceuticals.

LEGISLATIVE COUNSEL'S DIGEST

SB 1763, as introduced, Figueroa. Pharmaceuticals: compulsory licensing.

Under existing law, the State Department of Health Services administers the Medi-Cal program, and is authorized, among other things, to enter into contracts with certain drug manufacturers. Under existing law, the department is entitled to drug rebates in accordance with certain conditions, and drug manufacturers are required to calculate and pay interest on late or unpaid rebates.

This bill would declare the intent of the Legislature to enact legislation to establish a process by which the state may authorize compulsory licensing of pharmaceuticals.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The World Health Organization has recommended that
- 4 governments stockpile antiviral drugs to limit the spread of a
- 5 potential influenza pandemic.
- 6 (b) The Infectious Disease Society of America has advocated
- 7 that the federal government stockpile sufficient medicines to treat
- 8 25 to 40 percent of the population of the United States.

1 (c) The United States has fallen far short of achieving the
2 President's goal of stockpiling enough antiviral medications to
3 treat 81 million individuals in the event of a flu pandemic, with
4 the current stockpile at approximately 4.3 million courses.

5 (d) There is question as to the ability of existing
6 pharmaceutical manufacturers to produce sufficient supplies of
7 antiviral medications in a near-term time frame to meet the
8 treatment goals recommended.

9 (e) Voluntary or compulsory licensing to manufacturers other
10 than existing rights holders can be used to produce generic
11 versions of needed medications in a health emergency, such as
12 the antiviral medications needed to limit the spread of a potential
13 influenza pandemic.

14 (f) Compulsory licensing is used in other industries in the
15 United States.

16 (g) There is federal statutory authority to authorize the federal
17 government to use compulsory licensing in the pharmaceutical
18 industry.

19 (h) The World Trade Organization allows countries to issue
20 compulsory licenses for pharmaceuticals to address public health
21 needs.

22 (i) Compulsory licensing could be used by the state to ensure
23 sufficient production of needed medications in a health
24 emergency, with reasonable compensation to the rights holder, if
25 voluntary licenses are insufficient to meet public health needs.

26 SEC. 2. It is the intent of the Legislature to enact legislation
27 establishing a process by which the state may issue a compulsory
28 license, with reasonable compensation to the rights holder, to
29 ensure that the state obtains needed medications in a public
30 health emergency.